

REMARKS

Claim 34 was noted to be dependent on itself and that has been corrected by changing the dependency to claim 33. In light of this correction, it is respectfully submitted that claims 34 through 38 should be restored to active consideration in this case.

Claim 33 has been amended to eliminate compounds 35 and 36 (as indicated by the double brackets before and after the formula) and it is respectfully submitted that this claim is free of the cited prior art and withdrawal of the rejections under 35 USC § 102 is respectfully solicited.

Reconsideration of the determination that claims 39-45 (amended above to correct an obvious typographical error) are directed to a non-elected invention is respectfully requested. Such a request for reconsideration was made in the last filed response but is not addressed in the current Office Action. It is respectfully pointed out that this application is a national phase of a PCT application and therefore the rules applicable to unity of invention (and not restriction) control. Unity exists when there is a single general inventive concept under PCT Rule 13.1 which, under PCT Rule 13.2, means the claims have the same or a corresponding special technical feature. All of the compounds of claim 33 are capable of reducing the virulence in Gram-negative bacteria having a type III secretion (TTS) system. Accordingly, a special technical feature and hence unity is present.

A prior Office Action states that claims 39-45 are "independent or distinct" (which is an application of restriction rather than unity practice, and not proper here) because "the method of using the compounds in claim 33 was not presented in the

original claims.” It is respectfully pointed out that this assertion was not correct. In that connection, the attention of the Examiner is invited to the definition of Group III (“a method of decreasing virulence in Gram-negative bacteria”) in the Office Action of August 28, 2006.

The Examiner will also note that in the response filed October 27, 2006, the separation of Group III from the elected group was traversed. Thereafter, the separation of Group III was attempted to be justified on the grounds that the special technical feature had to be in all groups and not in less than all groups. No authority for the “less than all” justification was cited and it is respectfully submitted that there is none. In any event, the traversal of the unity requirement was continued in the next response coupled with limited the claims to only the examined group and Group III, thereby making the justification moot. Under these circumstances, it is respectfully submitted that withdrawing claims 39-45 on the grounds that they were constructively non-elected by the original presentation of claims has no applicability here.

It is also submitted that consideration of claims 39-45 at this time does not place an undue burden on the Office here. The compounds themselves have been examined and found to be novel and unobvious. Their properties, which are inseparable from the compounds themselves, MPEP 2141.02(V), include reducing the virulence in Gram-negative bacteria having a type III secretion (TTS) system, are unexpected. Accordingly, these claims need only be examined for compliance with § 112 and they obviously satisfy the requirements of that section.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: September 6, 2007

Respectfully submitted,

By Edward A. Meilman

Edward A. Meilman

Registration No.: 24,735

DICKSTEIN SHAPIRO LLP

1177 Avenue of the Americas

41st Floor

New York, New York 10036-2714

(212) 277-6500

Attorney for Applicant